



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
LIBERTY FABRICS DIVISION OF SARA LEE INTIMATE APPAREL
VPDES Permit No. VA0001554**

SECTION A: Purpose

This a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) and (8d) by the State Water Control Board to Liberty Fabrics Division of Sara Lee Intimate Apparel for the purpose of resolving certain alleged violations of State Water Control Law and the Regulations.

SECTION B: Definitions

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Liberty" means the Liberty Fabrics Division of Sara Lee Intimate Apparel.
7. "Plant" means the Liberty wastewater treatment plant that operates under VPDES Permit No. VA0001554.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

9. "Permit" means VPDES Permit No.VA0001554, which was reissued to Liberty on November 3, 1999, expired on November 3, 2004, and was reissued on March 23, 2005.
10. "Regulations" means the Permit Regulation, 9 VAC 25-31-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. On November 3, 2003, the Department issued a Permit Reissuance Reminder letter to Liberty. That letter stated that the Permit will expire on November 3, 2004 and that the deadline for submitting a complete application for reissuance of the Permit was May 7, 2004.
2. The Department received an application for reissuance of the Permit on May 7, 2004.
3. In a letter to Liberty dated April 24, 2004, the Department stated that the application for reissuance of the Permit was administratively incomplete. Attachments to that letter explained the deficiencies, which included failure to pay the permit application fee, failure to adequately identify drainage areas for certain outfalls, and failure to make certain necessary signatures. The permit application fee was paid by on or about May 28, 2004. The application for reissuance of the Permit was complete on or about July 1, 2004.
4. The Permit expired on November 3, 2004.
5. DEQ sent a draft permit to the Liberty on December 15, 2004. EPA concurred with the draft permit on January 4, 2005.
6. On February 14, 2005, the Department issued Notice of Violation ("NOV") No. W2005-02-0009 to Liberty. The NOV listed the following alleged violations: 1) Liberty failed to submit a complete application for reissuance of the Permit at least 180 days before expiration of the Permit as required by 9 VAC 25-31-100; 2) the Permit expired on November 3, 2004 and the Liberty has been discharging without a permit since that time.
7. On February 16, 2005, the Department began a 30-day public comment period for reissuance of the Permit. The Permit was reissued on March 23, 2005.

SECTION D: Agreement and Order

Accordingly, the State Water Control Board, by virtue of the authority granted it in §62.1-44.15(8a) and (8d), orders Liberty, and Liberty agrees, to pay a civil charge of Two Thousand Four Hundred Dollars (\$2,400.00) within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check, certified check, money

order or cashier's check payable to the "Treasurer of Virginia". Payment shall be sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, VA 23240

Payment shall include Liberty's federal identification number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Liberty, for good cause shown by Liberty, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the facility as may be authorized by law; or (c) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Liberty admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Liberty declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and State Water Control Law, Va. Code §§ 62.1-44.2 *et seq.*, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board or the Director to enforce this Order.
5. Failure by Liberty to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of

the Order shall remain in full force and effect.

7. Liberty shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other such occurrences beyond Liberty's control. Liberty shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Liberty shall notify the WCRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth: (a) the reasons for the delay or noncompliance; (b) the projected duration of any such delay or noncompliance; (c) the measures taken and to be taken to prevent or minimize such delay or noncompliance; and (d) the timetable by which such measures will be implemented and the date full compliance will be achieved. Failure to so notify the WCRO Regional Director within twenty-four hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.
8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. Any plans, reports, schedules or specifications attached hereto or submitted by Liberty and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
10. This Order shall become effective upon execution by both the Director or his designee and Liberty. Notwithstanding the foregoing, Liberty agrees to be bound by any compliance date that precedes the effective date of this Order.
11. This Order shall continue in effect until either: a) Liberty petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of this Order, or b) the Director or Board terminates this Order in his or its sole discretion upon 30 days written notice to Liberty. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Liberty from its obligations to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By the signatures of authorized officials below, Liberty voluntarily agrees to the issuance of this Order.
13. The undersigned representative of Liberty certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Liberty to this document. Any documents to be submitted pursuant to this Order shall also be

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submitted by a responsible official of Liberty.

And it is so ORDERED this 29th day of SEPTEMBER, 2005

Steven A. Dietrich
For Robert G. Burnley, Director
Department of Environmental Quality

Liberty voluntarily agrees to the issuance of this Order.

By: Michael Clark

Commonwealth of Virginia

City/County of Patrick

The foregoing instrument was acknowledged before me this 29th day of August, 2005,
by Michael D. Clark, who is Director of
Liberty, on behalf Liberty. Fabric mfg. of

Betty C. Griffith
Notary Public

My commission expires: 12/31/2005